

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

THERESA GAMEZ

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VS.

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DILLON TRANSPORT, INC.; DILLON
TRANSPORT, INC. IN ITS COMMON
OR ASSUMED NAME; GREAT WEST
CASUALTY COMPANY, LEXINGTON
INSURANCE COMPANY; OLD REPUBLIC
SURETY COMPANY; NATIONAL UNION
FIRE INSURANCE COMPANY OF
PITTSBURGH, P.A.; KENNETH EUGENE
JENNINGS AND MIGUEL A. GARCIA, SR.

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Civil Action No.: 3:16-CV-272

**UNOPPOSED MOTION TO TRANSFER TO CORRECT DIVISION AND REQUEST
FOR PRE-MOTION CONFERENCE**

Now come Defendants Great West Casualty Company and Old Republic Surety Company and request that this Court transfer the captioned matter to the US District Court for the Southern Division of Texas, Corpus Christi Division as more fully set forth herein.

1. On September 27, 2016, Defendants Great West Casualty Company and Old Republic Surety Company filed a Notice of Removal, removing the action captioned Cause no. 2016DCV-4123-B, *Theresa Gamez vs. Dillon Transport, Inc.; Dillon Transport, Inc. in its Common or Assumed Name; Great West Casualty Company, Lexington Insurance Company; Old Republic Surety Company; National Union Fire Insurance Company of Pittsburgh, P.A.; Kenneth Eugene Jennings; and Miguel A. Garcia, Sr., Deceased* from the 117th Judicial District Court of Nueces County, Texas.

2. Though the Notice of Removal purports to remove the state court action to the “United States District Court for the district and division corresponding to the place where the state court action was pending” (Rec. Doc. 1., par. 8), which would be the Corpus Christi Division, the matter was erroneously filed in this Division.

3. Under 28 USC 1406(a), “The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” In *S.W.S. Erectors, Inc. v. Infax, Inc.*, the Fifth Circuit states, “When a case is removed to the wrong district, the mistake does not require remand and the interest of justice requires that the action be transferred to the district court of proper venue.” 72 F.3d 489, 493 n.3.

4. Defendants Great West Casualty Company and Old Republic Surety Company respectfully request that the Court enter an Order transferring this case from this Division to the Corpus Christi Division as the district court division corresponding to the place where the state court action was pending.

5. To the extent a pre-motion conference is necessary pursuant to this Court’s procedures, please allow this to serve as a request for same.

6. Undersigned counsel certifies that all other parties, through counsel, consent to the transfer of this matter to the Corpus Christi Division.

Respectfully Submitted,

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/s/ Sarah R. Smith

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***Attorneys for Defendant, Great West Casualty
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to all counsel, noted below, via the Court's ECF filing system on this 28th day of September, 2016:

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